

1 Remarks

2 Amendments to the claims

3 Claims 7, 10 and 17 have been amended as indicated above. Support for this
4 amendment is found at least in the Specification at page 4, line 13 to page 12, line
5 35, as well as figures 2-13 of the Drawings, as respectively originally filed.

6 New claims 37 and 38 have been added as indicated above. New claim 37
7 corresponds to claim 26 rewritten in independent form and including all of the
8 limitations of the corresponding base claim 7 (prior to amendment) and the only
9 intervening claim 25. New claim 38 depends from claim 7, as amended. New claim
10 38 corresponds to at least one limitation that was presented in claim 7 as originally
11 filed. No new matter has been introduced through the amending of the claims.
12

13 Rejection of claims under 35 U.S.C. § 102

14 Claims 11-12, and 32-33 have been rejected under 35 U.S.C. § 102(b) as
15 being anticipated by U.S. Patent No. 5,383,009 ("Tsusaka").

16 The Applicants respectfully disagree that claims 11-12 and 32-33 are
17 anticipated by Tsusaka.

18 Claim 11

19 The Applicants contend that claim 11, as amended (and rejected claims 12
20 and 32-33 which depend therefrom) are not anticipated by Tsusaka. In regard to
21 claim 11, that claim includes the following limitations:
22

23 An imaging media cartridge comprising:

24 a first imaging media reservoir chamber;

25 a second imaging media reservoir chamber;

a distribution chamber; [...]

1 a first removable barrier disposed immediately between the first
2 imaging media reservoir chamber and the distribution chamber;

3 a second removable barrier disposed immediately between the
4 distribution chamber and the second imaging media reservoir
5 chamber; and

6 wherein the first removable barrier and the second removable
7 barrier are configured to be separately removable.

8 (Emphasis added.)

9 It should be noted that the limitations as recited by claim 11 refer to an
10 imaging media cartridge. That is, claim 11 recites features and limitations that are
11 simultaneously common, for at least some period of time, to each discrete specimen
12 (i.e., singular entity) of the present invention as recited by claim 11.

13 Tsusaka fails to anticipate the present invention as recited by claim 11, as
14 Tsusaka fails to provide an imaging media cartridge comprising a first removable
15 barrier disposed immediately between the first imaging media reservoir chamber and
16 the distribution chamber and a second removable barrier disposed immediately
17 between the distribution chamber and the second imaging media reservoir chamber,
18 as recited in combination with the other features of claim 11.

19 In contrast, Tsusaka is directed to a developing device 1 that includes an
20 (initial) upper unit 1A that includes an (initial) amount of magnetic toner 20, wherein
21 the (initial) toner 20 and a developer 5 are temporarily secured in place by way of an
22 initial removable film strip 3. (Abstract; Col. 5, lines 1-36; and Fig. 2 of Tsusaka.)
23 After removal of the (initial) film strip 3, the (initial) magnetic toner 20 and the
24 developer 5 fall into a ready-to-use orientation within the lower unit 1C of the
25 developing device 1 (Col. 5, lines 37-42; Fig. 3 of Tsusaka). Once the (initial)
 amount of toner 20 is substantially consumed (i.e., used up, or spent, via the normal
 imaging process), the *initial* upper unit 1A is removably disengaged from the lower

1 unit 1C and a *new* (replacement) upper unit 1A is engaged with the lower unit 1C,
2 wherein the (new) upper unit 1A includes a (new) amount of toner 20 that is held in
3 place by a (new) removable film strip 67 (Col. 6, lines 23-33; Fig. 6 of Tsusaka).

4 At no time does the developing device 1 of Tsusaka *simultaneously* include
5 both the *initial* removable film strip 3 and the *new* removable film strip 67. Thus,
6 Tsusaka fails to provide *any entity* that includes a *first removable barrier* **and** a
7 *second removable barrier*, as recited in combination with the other features of instant
8 claim 11. In any case, the 102(b) rejection of claim 11 is unsupported in view of
9 the substantive deficiencies of Tsusaka.

10 For at least these reasons, the Applicants assert that claim 11 is allowable. It
11 is axiomatic that claims 12 and 32-33 are also allowable at least by virtue of their
12 dependence upon allowable base claim 11.

13 14 Rejection of claims under 35 U.S.C. § 103

15 Claims 7, 10, 17-18, 23-29 and 31 have been rejected under 35 U.S.C.
16 § 103(a) as being unpatentable over U.S. Patent No. 4,607,938 ("Hosoi").

17 The Applicants respectfully disagree that claims 7, 10, 17-18, 23-29 and 31,
18 as respectively amended, are obvious over Hosoi.

19 As a starting point, MPEP 706.02(j) states:

20 "[t]o establish a *prima facie* case of obviousness, three basic
21 criteria must be met. First, there must be some suggestion or
22 motivation, either in the cited references themselves or in the
23 knowledge generally available to one of ordinary skill in the art, to
24 modify the reference or to combine the reference teachings. Second,
25 there must be a reasonable expectation of success. Finally, **the prior**
art reference (or references when combined) **must teach or suggest**
all the claim limitations. The teaching or suggestion to make the

1 claimed combination and the reasonable expectation of success must
2 both be found in the prior art and not based on applicant's disclosure."

3 (Emphasis added.)

4 With respect to claims 23-29 and 31, those claims depend from claim 7 (as
5 amended). Regarding claim 18, that claim depends from claim 17 (as amended).
6 The following arguments go to the allowability of independent claims 7, 10 and 17
7 (as respectively amended). Because it is axiomatic that any claim which depends
8 from an allowable claim is also allowable, the Applicants do not believe it necessary
9 to provide arguments in favor of each and every dependent claim.
10

11 Claim 7

12 In regard to claim 7, as amended, (as well as claims 23-29 and 31 that
13 depend therefrom), that claim (as amended) includes the following limitations:
14

15 An imaging media cartridge comprising:
16 a first imaging media reservoir chamber;
17 a second imaging media reservoir chamber; and
18 a removable barrier disposed between the first imaging media
19 reservoir chamber and the second imaging media reservoir chamber;
20 and wherein:

21 the first imaging media reservoir chamber is defined by a
22 first volume;

23 the second imaging media reservoir chamber is defined
24 by a second volume; and
25

1 the first and second imaging media reservoirs contain
2 respective volumes of a mutually common composition of
3 imaging media.

4 (Emphasis added.)

5
6 Hosoi fails to teach or suggest an imaging media cartridge comprising first
7 and second imaging media reservoir chambers, wherein the first and second
8 imaging media reservoirs contain respective volumes of a mutually common
9 composition of imaging media, as recited, in slightly varying language, in
10 combination with the other features of claim 7, as amended.

11 Rather, Hosoi is directed to a developing apparatus 5 that includes an upper
12 accommodation portion 22, a lower accommodation portion 27, and a carrying
13 member 12, wherein the upper portion 22 and the lower portion 27 are separated by
14 a removable partition plate 20, and wherein the lower portion 27 (and the upper
15 portion 22, for that matter) and carrying member 12 are separated by a removable
16 partition plate 25 (Col. 8, lines 18-60; Fig. 7 of Hosoi). The upper portion 22
17 contains a non-magnetic developer 23, while the lower portion 27 contains magnetic
18 particles 28 (*Id.*). In this way, Hosoi is directed to separate accommodation portions
19 (22, 27) that separate *different* materials (23, 28) so as to prevent the mixing or
20 commingling of these materials until the developing apparatus 5 is ready to be used
21 within a suitable imaging apparatus (Col. 8, lines 53-55 of Hosoi). This is not the
22 same as the present invention as recited by claim 7, as amended.

23 In view of the foregoing, the 103 rejection of claim 7, as amended, is
24 unsupportable in view of the requirements of MPEP 706.02(j), and should be
25 withdrawn.

1 For at least these reasons, the Applicants assert that claim 7, as amended, is
2 allowable. As claims 23-31 depend upon claim 7, as amended, it is axiomatic that
3 they too are allowable at least by virtue of their dependency.

4
5 Claim 10

6 In regard to claim 10, as amended, that claim (as amended) includes the
7 following limitations:

8
9 An imaging media cartridge comprising:
10 a first imaging media reservoir chamber;
11 a second imaging media reservoir chamber; and
12 a removable barrier disposed between the first imaging media
13 reservoir chamber and the second imaging media reservoir chamber;
14 and wherein:

15 the first chamber contains a first volume of an imaging
16 media of a predetermined composition;

17 the second chamber contains a second volume of the
18 same imaging media as the imaging media contained in the first
19 chamber; and

20 the second volume of the imaging media is at least ten
21 percent less than the first volume of the imaging media.

22 (Emphasis added.)

23
24 Hosoi fails to teach or suggest an imaging media cartridge comprising first
25 and second media reservoir chambers, respectively containing first and second
volumes of the same imaging media, as recited, in slightly varying language, in
combination with the other features of claim 10, as amended.

1 Again, Hosoi is directed to a developing apparatus 5 that includes and
2 supports an amount of non-magnetic developer 23, and an amount of magnetic
3 particles 28, in respectively separate portions 22 and 27 (Fig. 7 and related text of
4 Hosoi). This is not the same as first and second chambers containing respective
5 volumes of the same (i.e., compositionally like) imaging media, as equivalently
6 recited by instant claim 10, as amended.

7 Furthermore, Hosoi fails to teach or suggest that the second volume of the
8 imaging media is at least ten percent less than the first volume of the imaging media,
9 as recited in combination with the other feature of claim 10, as amended. That is,
10 Hosoi fails to teach, suggest or motivate the provision of first and second separate
11 and distinct volumes (i.e., portions) of a same imaging media, wherein the second
12 volume is specifically (i.e., intentionally) less than the first volume by least ten
13 percent thereof.

14 In fact, Hosoi is completely devoid of the terms "volume", "volumetric", or their
15 respective equivalents, in any context. Hosoi is exclusively concerned with
16 maintaining separation between two *different* materials (23, 28) – with no mention of
17 their respective or relative *volumes* – until the developing apparatus 5 is ready for
18 use. This is not the same as the present invention as recited by instant claim 10, as
19 amended. In view of the deficiencies of Hosoi, and in further view of the
20 requirements of MPEP 706.02(j), the 103 rejection of claim 10 cannot be supported
21 and should be withdrawn. The present invention as recited by claim 10, as
22 amended, is directed to an imaging media cartridge including a second volume (i.e.,
23 backup, or reserve) of imaging media so that a user can complete an imaging job
24 already in progress without the need to replace the present imaging media cartridge.
25 (See specification, page 4, lines 13-26.) As one of skill in the relevant art would not
find any teaching, suggestion or motivation within Hosoi to include a second volume
of (the same) imaging media within a cartridge, it would not be obvious to select

1 such a second volume to be *at least ten percent less* than the first volume of (the
2 same) imaging media, as recited by claim 10, as amended. Such an assertion of
3 “obviousness” must be founded on hindsight and is impermissible.

4 For at least these reasons, the Applicants assert that claim 10, as amended,
5 is allowable.

6
7 Claim 17

8 In regard to claim 17, as amended, (and claim 18 that depends thereon) that
9 claim (as amended) includes the following limitations:

10
11 A toner cartridge comprising:
12 a first toner reservoir chamber;
13 a second toner reservoir chamber;
14 a distribution chamber;

15 and wherein:

16 the first toner reservoir chamber and the second toner
17 reservoir chamber are configured to be in communication with
18 one another via the distribution chamber; and

19 the first toner reservoir chamber and the second toner
20 reservoir chamber contain respective volumes of a mutually
21 common composition of toner.

22 (Emphasis added.)

23
24 Hosoi fails to teach or suggest a first toner reservoir chamber and the second
25 toner reservoir chamber configured to be in communication with one another via [a]
distribution chamber, as recited in combination with the other features of claim 17,
as amended. Furthermore, Hosoi fails to teach or suggest a first toner reservoir

1 chamber and [a] second toner reservoir chamber contain[ing] respective volumes of
2 a mutually common composition of toner, as recited in combination with the other
3 features of claim 17, as amended.

4 Rather, Hosoi specifically teaches accommodation portions 22 and 27 that
5 are arranged in stacked adjacency within a developing apparatus 5 and separated
6 from each other by way of a removable partition plate 20 (Fig. 7 of Hosoi). Thus, the
7 portions 22 and 27 of Hosoi are configured to communicate with one another by way
8 of removal of the partition plate 20 – no mutual communication with a “distribution
9 chamber” is needed or even suggested under Hosoi. Nor is Hosoi in any way
10 teaching or suggestive of first and second toner reservoir chambers containing
11 respective volumes of a mutually common composition of toner. This is not the
12 same as the present invention as recited by claim 17, as amended.

13 In view of the foregoing, the Applicants assert that claim 17, as amended, is
14 allowable. As claim 18 depends upon claim 17, as amended, claim 18 is also
15 allowable.

16
17 Claims objected to

18 The Examiner has stated that claim 26 would be allowable if rewritten to
19 include all of the limitations of the base claim and any intervening claims (Page 6 of
20 Office Action). As described above, new claim 37 corresponds to claim 26 rewritten
21 in independent form and including all of the limitations of base claim 7 (prior to its
22 currently amended form) and the only intervening claim 25. Therefore, the
23 Applicants believe that new independent claim 37 is allowable.

24
25 New claim 38

 New claim 38 has been added as provided above. New claim 38 depends
from claim 7, as amended, and recites at least one limitation originally recited within

1 claim 7, prior to the present amendment thereof. The Applicants assert that new
2 claim 38 is allowable at least by virtue of its dependence from allowable base claim
3 7, as amended, as well as for its own patentably distinct limitations.

4
5 Rejection of claims under non-statutory double patenting

6 Claims 11-12, 17-18 and 32-36 are rejected under the judicially created
7 doctrine of obviousness-type double patenting as being unpatentable over claims 1-3
8 of U.S. Patent No. 6,679,594 ("Sesek at al.").

9 A terminal disclaimer in accordance with 37 C.F.R. §1.321(c) is submitted
10 contemporaneous with this Response in order to overcome the double patenting
11 rejection of claims 11-12, 17-18 and 32-36 (as respectively amended). Thus, the
12 rejection of claims, 11-12, 17-18 and 32-36, as respectively amended, is believed
13 moot.

14
15 Telephonic interview with Examiner

16 A telephonic interview was conducted with the Examiner on November 12,
17 2004 regarding the Examiner's failure to provide the current status of pending claim
18 30 within the Office Action. During the interview the Examiner stated that claim 30 is
19 rejected under 35 U.S.C. § 102(b) as being anticipated by Tsusaka. The Applicants
20 assert that claim 30, which depends from allowable independent claim 7, as
21 amended, is allowable at least by virtue this dependency, as well as for its own
22 respectively patentable features and limitations.

23
24 Summary

25 The Applicants believe that this response constitutes a full and complete
response to the Office Action. As such, the Applicants respectfully request

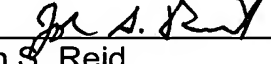
1 reconsideration of claims 7, 10-12, 17-18 and 23-36, as well as consideration on the
2 merits of new claim 37, in favor of timely allowance.

3 The Examiner is respectfully requested to contact the below-signed
4 representative if the Examiner believes this will facilitate prosecution toward
5 allowance of the claims.

6
7 Respectfully submitted,

8 Robert SESEK and Travis PARRY

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10 Date: November 15, 2004

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